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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,538	07/16/2004	Martin Edward Lee Pickford	PICKFORD-15651	6357
25628	7590 05/01/2006		EXAMINER	
	ICES OF WILLIAM	BARRETT, THOMAS C		
12311 HARBOR DRIVE WOODBRIDGE, VA 22192			ART UNIT	PAPER NUMBER
	•	3738		
			DATE MAILED: 05/01/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Cumman.	10/501,538	PICKFORD ET AL.
Office Action Summary	Examiner	Art Unit
	Thomas C. Barrett	3738
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the	correspondence address
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING D.  - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period of Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATIO 36(a). In no event, however, may a reply be ti will apply and will expire SIX (6) MONTHS fror e, cause the application to become ABANDON	N. mely filed n the mailing date of this communication. ED (35 U.S.C. § 133).
Status	,	
<ol> <li>Responsive to communication(s) filed on 16 F</li> <li>This action is FINAL.</li> <li>Since this application is in condition for alloward closed in accordance with the practice under E</li> </ol>	s action is non-final. nce except for formal matters, pi	
Disposition of Claims		
4) ☐ Claim(s) 1-8 and 13-18 is/are pending in the a 4a) Of the above claim(s) is/are withdray 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 1-8 and 13-18 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or Application Papers	wn from consideration.	·
9) The specification is objected to by the Examine	er	
10) The drawing(s) filed on is/are: a) acc Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct	epted or b) objected to by the drawing(s) be held in abeyance. So tion is required if the drawing(s) is o	ee 37 CFR 1.85(a). bjected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Ex	xaminer. Note the attached Offic	e Action or form PTO-152.
Priority under 35 U.S.C. § 119		
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:  1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority application from the International Bureat * See the attached detailed Office action for a list	ts have been received. Is have been received in Applica Inity documents have been receiv In (PCT Rule 17.2(a)).	tion No ved in this National Stage
Attachment(s)		
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summar Paper No(s)/Mail [5] Notice of Informal 6) Other:	

#### **DETAILED ACTION**

### Response to Arguments

Applicant's arguments filed February 16, 2006 have been fully considered but they are not persuasive.

The Applicant states that "electroplating produces a surface layer which is clearly distinct from the underlying substrate, although attached to it..." However, the coating, once bonded with the substrate, can now be considered as integral with the substrate. The Applicant fails to specifically define "integral" within the specification. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., interdiffusion of metal...) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

## Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 and 13-18 remain rejected under 35 U.S.C. 102(b) as being anticipated by Ogle (6,113,636 A). Ogle discloses an implant comprising a metal substrate and a surface layer, the layer comprising silver as a biocidal metal. Please

note that product by process claims are NOT limited to the manipulations of the recited steps, only to the structure implied by the steps. Therefore method steps such as "generated by" or "wherein the surface of the implant is highly polished before provision of the surface layer" are given limited weight because the structure of the product is the same as claimed.

#### Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas C. Barrett whose telephone number is (571) 272-4746. The examiner can normally be reached Tuesday-Friday between 9:00 A.M. and 6:00 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thomas Barrett

Examiner

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